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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 COREY HAMILTON,

Case No. 3:19-cv-00617-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 RICHARD SNYDER, *et al.*,

10 Defendants.

11 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983
12 by a state prisoner. On December 23, 2019, this Court issued an order denying the
13 Plaintiff's application to proceed *in forma pauperis*, without prejudice, because the
14 application was incomplete. (ECF No. 10 at 2). The Court ordered Plaintiff to file a properly
15 executed financial certificate on the correct form and an inmate account statement for the
16 past six months or pay the full filing fee of \$400 within 30 days from the date of that order.
17 (*Id.* at 2). The 30-day period has now expired, and Plaintiff has not filed a properly
18 executed financial certificate on the correct form and an inmate account statement for the
19 past six months, paid the full filing fee, or otherwise responded to the Court's order. The
20 Court will therefore dismiss this case.

21 District courts have the inherent power to control their dockets and "[i]n the
22 exercise of that power, they may impose sanctions including, where appropriate . . .
23 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
24 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure
25 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
26 See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (affirming dismissal for
27 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir.
28 1992) (affirming dismissal for failure to comply with an order requiring amendment of

1 complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal
2 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of
3 address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
4 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
5 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with
6 local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to obey
8 a court order, or failure to comply with local rules, the court must consider several factors:
9 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
10 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
11 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
12 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at
13 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

14 Here, the Court finds that the first two factors, the public's interest in expeditiously
15 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
16 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
17 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
18 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
19 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
20 disposition of cases on their merits—is greatly outweighed by the factors in favor of
21 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
22 the court's order will result in dismissal satisfies the “consideration of alternatives”
23 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779
24 F.2d at 1424. The Court's order requiring Plaintiff to file a properly executed financial
25 certificate on the correct form and an inmate account statement for the past six month or
26 pay the full filing fee within 30 days expressly stated: “IT IS FURTHER ORDERED that,
27 if Plaintiff fails to timely file a properly executed financial certificate on the correct form
28 and an inmate account statement for the past six months, the Court will dismiss the case,

1 without prejudice, for Plaintiff to file a new case when he is able to acquire the necessary
2 documents to file a complete application to proceed *in forma pauperis*.” (ECF No. 10 at
3 2). Thus, Plaintiff had adequate warning that dismissal would result from his
4 noncompliance with the Court’s order to file a properly executed financial certificate on
5 the correct form and an inmate account statement for the past six months or pay the full
6 filing fee within 30 days.

7 It is therefore ordered that this action is dismissed without prejudice based on
8 Plaintiff’s failure to file a properly executed financial certificate on the correct form and an
9 inmate account statement for the past six months or pay the full filing fee in compliance
10 with this Court’s December 23, 2019 order.

11 It is further ordered that the Clerk of Court will close the case and enter judgment
12 accordingly.

13 DATED THIS 28th day of February 2020.

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16 MIRANDA M. DU
17 CHIEF UNITED STATES DISTRICT JUDGE
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